



Senate

General Assembly

File No. 456

February Session, 2022

Substitute Senate Bill No. 475

Senate, April 13, 2022

The Committee on Government Administration and Elections reported through SEN. FLEXER of the 29th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING STATE AGENCY PROCUREMENT OF RECYCLABLE PRODUCTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (c) of section 4a-59 of the 2022 supplement to
2 the general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective October 1, 2022*):

4 (c) All open market orders or contracts shall be awarded to (1) the
5 lowest responsible qualified bidder, the qualities of the articles to be
6 supplied, their conformity with the specifications, their suitability to the
7 requirements of the state government and the delivery terms being
8 taken into consideration and, at the discretion of the Commissioner of
9 Administrative Services, life-cycle costs and trade-in or resale value of
10 the articles may be considered where it appears to be in the best interest
11 of the state, (2) the highest scoring bidder in a multiple criteria bid, in
12 accordance with the criteria set forth in the bid solicitation for the
13 contract, or (3) the proposer whose proposal is deemed by the awarding

14 authority to be the most advantageous to the state, in accordance with
15 the criteria set forth in the request for proposals, including price and
16 evaluation factors. Notwithstanding any provision of the general
17 statutes, [to the contrary,] each state agency awarding a contract
18 through competitive negotiation shall include price as an explicit factor
19 in the criteria in the request for proposals and for the contract award. In
20 considering past performance of a bidder for the purpose of
21 determining the "lowest responsible qualified bidder" or the "highest
22 scoring bidder in a multiple criteria bid", the commissioner shall
23 evaluate the skill, ability and integrity of the bidder in terms of the
24 bidder's fulfillment of past contract obligations and the bidder's
25 experience or lack of experience in delivering supplies, materials,
26 equipment or contractual services of the size or amount for which bids
27 have been solicited. In determining the lowest responsible qualified
28 bidder for the purposes of this section for contracts awarded on or after
29 October 1, 2022, the commissioner [may] shall give a price preference of
30 up to ten per cent for [(A)] the purchase of goods made with recycled
31 materials or the purchase of recyclable or remanufactured products. [if
32 the commissioner determines that such preference would promote
33 recycling or remanufacturing.] As used in this subsection, "recyclable"
34 means able to be collected, separated or otherwise recovered from the
35 solid waste stream for reuse, or for use in the manufacture or assembly
36 of another package or product, by means of a recycling program which
37 is reasonably available to at least seventy-five per cent of the state's
38 population, "remanufactured" means restored to its original function
39 and thereby diverted from the solid waste stream by retaining the bulk
40 of components that have been used at least once and by replacing
41 consumable components and "remanufacturing" means any process by
42 which a product is remanufactured. [; (B)] In determining the lowest
43 responsible qualified bidder for the purposes of this section, the
44 commissioner may give a price preference of up to ten per cent for (A)
45 the purchase of motor vehicles powered by a clean alternative fuel; [(C)]
46 (B) the purchase of motor vehicles powered by fuel other than a clean
47 alternative fuel and conversion equipment to convert such motor
48 vehicles allowing the vehicles to be powered by either the exclusive use

49 of clean alternative fuel or dual use of a clean alternative fuel and a fuel
50 other than a clean alternative fuel. As used in this subsection, "clean
51 alternative fuel" means natural gas, electricity, hydrogen or propane
52 when used as a motor vehicle fuel; or ~~[(D)]~~ (C) the purchase of goods or
53 services from a micro business, except that, in the case of a veteran-
54 owned micro business, the commissioner may give a price preference of
55 up to fifteen per cent. As used in this subsection, "micro business" means
56 a business with gross revenues not exceeding three million dollars in the
57 most recently completed fiscal year, "veteran-owned micro business"
58 means a micro business of which at least fifty-one per cent of the
59 ownership is held by one or more veterans and "veteran" has the same
60 meaning as provided in section 27-103. All other factors being equal,
61 preference shall be given to supplies, materials and equipment
62 produced, assembled or manufactured in the state and services
63 originating and provided in the state. Except with regard to contracts
64 that may be paid for with United States Department of Transportation
65 funds, if any such bidder refuses to accept, within ten days, a contract
66 awarded to such bidder, such contract may be awarded to the next
67 lowest responsible qualified bidder or the next highest scoring bidder in
68 a multiple criteria bid, whichever is applicable, and so on until such
69 contract is awarded and accepted. Except with regard to contracts that
70 may be paid for with United States Department of Transportation funds,
71 if any such proposer refuses to accept, within ten days, a contract
72 awarded to such proposer, such contract shall be awarded to the next
73 most advantageous proposer, and so on until the contract is awarded
74 and accepted. There shall be a written evaluation made of each bid. This
75 evaluation shall identify the vendors and their respective costs and
76 prices, document the reason why any vendor is deemed to be
77 nonresponsive and recommend a vendor for award. A contract valued
78 at one million dollars or more shall be awarded to a bidder other than
79 the lowest responsible qualified bidder or the highest scoring bidder in
80 a multiple criteria bid, whichever is applicable, only with written
81 approval signed by the Commissioner of Administrative Services and
82 by the Comptroller. The commissioner shall post on the department's
83 Internet web site all awards made pursuant to the provisions of this

84 section.

85 Sec. 2. Section 4a-67a of the general statutes is repealed and the
86 following is substituted in lieu thereof (*Effective October 1, 2022*):

87 (a) The Commissioner of Administrative Services shall, whenever
88 practicable, make efforts to increase state procurement of goods that
89 contain recycled materials and products that are recyclable or
90 remanufactured, as defined in subsection (c) of section 4a-59, as
91 amended by this act. Such efforts [may] shall include: (1) Requiring
92 replies to state agency bid specifications to include a statement of
93 postconsumer and secondary waste content; (2) establishing minimum
94 goals for state purchase of white bond and other paper with specified
95 postconsumer and secondary waste content and a schedule for the
96 accomplishment of such goals; (3) requiring bids to be accompanied by
97 statements assessing the ability of the materials to be recycled or
98 products to be recycled or remanufactured and assessing the extent to
99 which there are established recycling programs which would facilitate
100 recycling or remanufacturing; (4) authorizing the Department of
101 Administrative Services to substitute similar but different paper
102 products to meet agency orders if the substitute has a higher
103 postconsumer waste content; (5) requiring the Department of
104 Administrative Services to revise a specification to eliminate
105 requirements which favor virgin over recycled materials unless there is
106 a compelling reason for the specification; (6) requiring the commissioner
107 to investigate and report to the Municipal Solid Waste Recycling
108 Advisory Council opportunities for purchase of materials containing
109 postconsumer waste; and (7) requiring the state to utilize two-sided
110 copies, whenever possible, to reduce paper waste.

111 (b) The Commissioner of Administrative Services shall post on the
112 department's Internet web site information regarding the department's
113 efforts to increase state procurement of goods that contain recycled
114 materials and products that are recyclable or remanufactured.

115 (c) The Commissioner of Administrative Services shall revise the
116 specifications for products and materials purchased by the state for

117 which the United States Environmental Protection Agency has
118 guidelines for minimum recycled content to incorporate such minimum
119 guidelines. Such specifications shall favor recycled, recyclable or
120 remanufactured products and materials where such products or
121 materials are available.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2022	4a-59(c)
Sec. 2	October 1, 2022	4a-67a

Section 1	October 1, 2022	4a-59(c)
Sec. 2	October 1, 2022	4a-67a

Statement of Legislative Commissioners:

The title was changed.

GAE *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 23 \$	FY 24 \$
Various	All Funds - Potential Cost	See Below	See Below

Note: All Funds=All Funds

Municipal Impact: None

Explanation

This bill allows the Department of Administrative Services (DAS) to give up to a 10% price preference to certain businesses when awarding open market orders or contracts to buy goods or services made from certain recycled products. (A price preference is the percentage by which a bid may be reduced when awarding a contract to the lowest qualified bidder.)

A 10% price preference for certain recycled products may increase the cost of certain contracts (or goods or services) if contracts that would otherwise be awarded to the lowest qualified bidder are awarded to other products instead.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and contract terms.

OLR Bill Analysis**sSB 475*****AN ACT CONCERNING STATE AGENCY PROCUREMENT OF RECYCLABLE PRODUCTS.*****SUMMARY**

This bill requires the Department of Administrative Services (DAS) commissioner, for open market orders and contracts awarded on or after October 1, 2022, to give up to a 10% preference for purchasing (1) recyclable or remanufactured products or (2) goods made with recycled materials. (A price preference is the percentage by which a bid may be reduced for purposes of awarding a contract to the lowest qualified bidder.) In doing so, the bill also eliminates current law's provisions that the commissioner may provide a preference when he determines that it would promote recycling or remanufacturing. However, as the percentage of the preference is discretionary, presumably the commissioner could still choose not to provide it.

"Recyclable" means able to be collected, separated, or otherwise recovered from the solid waste stream for reuse, or for use in the manufacture or assembly of another package or product, by a recycling program which is reasonably available to at least 75% of the state's population. "Remanufactured" means restored to its original function and diverted from the solid waste stream by retaining the bulk of components that have been used at least once and by replacing consumable components.

Existing law requires the DAS commissioner, whenever practicable, to make efforts to increase state procurement of these products. Current law allows him to take certain steps to do so, including by requiring that bids include statements (1) of postconsumer and secondary waste content and (2) assessing the ability of materials to be recycled or products to be recycled or remanufactured, and the extent to which

there are established recycling programs to facilitate this.

The bill requires, rather than allows, him to use these specified actions. However, these efforts are still only required when practicable.

The bill also makes technical changes.

EFFECTIVE DATE: October 1, 2022

BACKGROUND

Contracting Preference Programs

State law generally requires that state contracts for goods and services be based on competitive bids or competitive negotiation (CGS § 4a-57(a)). However, there are several exceptions to this, such as allowing a price preference of up to 10% for certain small businesses and sustainable products (CGS § 4a-59(c)). In these instances, the contracting or purchasing official must abide by the laws surrounding the preference.

Related Bill

sSB 469, favorably reported by the Government Administration and Elections Committee, expands the types of procurement methods that state agencies may use when seeking to enter personal services agreements and contractual services contracts.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable

Yea 13 Nay 6 (03/28/2022)